UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,570	07/24/2001	Roberto DeLima	RSW9-2000-0124-US1	5486

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EXAMINER
PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
2151	

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *15 September 2005*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1,3-6 and 8-12* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1,3-6 and 8-12* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to communications filed on September 15, 2005.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee

set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

September 15, 2005 has been entered.

Response to Arguments

3. Applicant's arguments have been considered but are moot in view of the new

ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 3-6, 8-12, are rejected under 35 U.S.C. 103(a) as being

unpatentable over Colby et al. (hereinafter Colby), U.S. Patent 6,006,264 (supplied by

applicant), in view of the Applicants Admitted Prior Art (AAPA), and further in view of

Aziz, U.S. Patent Pub. No. 2003/0154279.

6. In considering claims 1, 10, and 12, Colby teaches a method, computer

readable product embedded on a computer readable media, and apparatus for

performing load balancing of client requests among a plurality of servers (100a-c and

120a-b), the method, computer readable product, and apparatus comprising: for each

one of the plurality of servers, creating and storing in a local memory a configuration file

containing parameters pertaining to the server to be applied for configuring a load

balancing scheme for a plurality of servers that include the server, wherein each of the

configuration files is accessible to a load balancer (110), (col. 6, lines 36-67, col. 7, lines

1-19); obtaining the parameters from the configuration file for each of the servers, (col.

6, lines 36-67, col. 7, lines 1-19); and configuring the load balancer to dispatch client

requests to the servers based on an algorithm using the parameters, (col. 6, lines 36-

67, col. 7, lines 1-19).

Although Colby shows substantial features of the claimed invention, Colby fails to

expressly disclose: the parameters comprising session affinity rules.

Nevertheless, session affinity rules were well known in the art at the time of the

present invention. This is indicated in the Applicant's discussion of the prior art on page

7, lines 14-21.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Colby to show the parameters comprising session affinity rules. This would have provided the load balancer with necessary information needed to perform load balancing efficiently, by associating multiple client requests from a single client to a single Web site with each other.

Although the modified teachings of Colby show substantial features of the claimed invention, they further fail to expressly disclose: the session affinity rules being formatted into markup language supported by the load balancer.

Nevertheless, markup languages were well known in the art at the time of the present invention to enable documents and other files to be platform-independent and highly portable between applications. Furthermore, Aziz teaches a system where configuration files are formatted into markup language supported by a load balancer, (pages 1-2, paragraphs 14-16).

Thus, if not implicit in the teachings of Colby (col. 6, lines 36-67, col. 7, lines 1-19), it would have been obvious to a person of ordinary skill in the art to further modify the teachings of Colby to show the parameters obtained from the configuration file for each of the servers comprising session affinity rules formatted into markup language supported by the load balancer. This would have advantageously enabled the affinity rules to be highly portable between the servers and the load balancer in configuring the load balancer, (Aziz, pages 1-2, paragraphs 14-16).

7. In considering claims 3 and 11, it is implicit in the teachings of Colby that each of the configuration files has a file path and name in accordance with a standard file path and naming protocol. See col. 6, lines 36-67, col. 7, lines 1-19.

8. In considering claim 4, Colby teaches the parameters comprising at least a health URL and content-based routing rules. See col. 6, lines 36-67, col. 7, lines 1-19.

9. In considering claim 5, it is implicit in the teachings of Colby that the content-based routing rules comprise a URL mask. See col. 6, lines 36-67, col. 7, lines 1-19.

10. In considering claim 6, although Colby shows substantial features of the claimed invention, Colby fails to expressly disclose: The parameters comprising time-of-day rules.

Nevertheless, time-of-day-rules were well known in the art at the time of the present invention. This is denoted by the Applicant in the Applicant's discussion of the prior art on page 7, lines 1-13.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Colby to show the parameters comprising time-of-day rules. This would have provided the load balancer with necessary information needed to perform load balancing efficiently.

11. In considering claim 8, Colby teaches the plurality of servers comprising a
server farm coupled to receive client requests via the Internet. See col. 3, lines 36-45.

12. In considering claim 9, Colby teaches the configuration file being an HTML
file. See col. 1, lines 59-65.

Conclusion

13. Any inquiry concerning this communication or earlier communications from
the examiner should be directed to Hassan Phillips whose telephone number is (571)
272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for
the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should
you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

ZARNI MAUNG/
SUPERVISORY PATENT EXAMINER